

**BEFORE THE OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE**

Certain Steel Products

International Trade Commission
Investigation Number: TA-201-73

**Request to Exclude Battery Quality Hot-Band (“BQHB”)
Submitted on behalf of Eveready Battery Company**

November 13, 2001

Steven P. Sonnenberg
SONNENBERG & ANDERSON
333 West Wacker Drive,
Suite 2070
Chicago, IL 60606
312-899-1100

Of Counsel:
M. Jason Cunningham

Table of Contents

Introduction.....	1
Background	1
Product Description	2
Basis for Exclusion of BQHB from Remedial Trade Sanctions	3
The Domestic Steel Industry Has Shown No Interest in Supplying BQHB.....	3
The Economic and Social Costs of Remedial Measures Against BQHB Would be Significant and Irreparable.....	5
Conclusion	6

Introduction

On October 22, 2001, the International Trade Commission (“ITC”) determined that imports of several broadly defined steel products, including hot-rolled carbon and alloy flat products are entitled to Section 201 trade relief. On October 26, 2001, the Trade Policy Staff Committee requested public comments from interested persons as to what action the President should take under section 203(a) of the Trade Act of 1974. Without making further comment or suggestion for appropriate action regarding other Carbon and Alloy Flat Products, Carbon and Alloy Long Products, Carbon and Alloy Tubular Products, nor Stainless and Tool Steel Products, Eveready Battery Company (“Eveready”) respectfully submits the present request for exclusion of a narrowly defined, niche hot-rolled carbon and alloy flat product commonly known in the domestic battery industry as Battery Quality Hot-Band (“BQHB”).

Because the domestic steel industry does not produce BQHB and because BQHB is a niche product accounting for less than .1% of the hot-rolled steel market, the social and economic costs to the domestic battery industry of remedial trade measures imposed against BQHB would outweigh the social and economic benefits, if any, that may accrue to the domestic steel industry.

Background

Eveready is the world’s largest producer of primary batteries. Eveready’s trademark products, such as Energizer,[™] are synonymous with quality, American-made merchandise. When viewed together with its domestic competitor, Eveready and Duracell represent 80% of the domestic battery market. Eveready’s own domestic

battery facilities employ nearly 2,500 American workers in several U.S. cities. As discussed below and indicated in the attached spreadsheet, these are good jobs that enrich the lives of the people who live and work in these communities.

By means of the present submission, Eveready informs the Trade Policy Staff Committee that increases in the cost of BQHB or denial of access to the current supply of BQHB would, very probably, cause the elimination of the vast majority of domestic battery jobs in the United States. The economic and social consequences of remedial measures against BQHB will disperse hardship in some of the smaller communities in which Eveready currently maintains battery production facilities.

Product Description

Battery Quality Hot-Band is a unique steel product used in the domestic production of battery cans. It is insignificant in value and volume when compared to other hot-rolled products.

Battery cans act as the primary protective barrier between battery users and the pressurized caustic chemicals contained within batteries. Operating pressures inside a AAA battery may normally exceed 180 pounds per square inch. Flaws in steel, commonly called “non-metallic inclusions” are weak spots through which the caustic battery substances may be expelled under normal operating conditions. These substances can cause serious personal injuries and product damage.

Use of BQHB in battery can production enormously reduces the likelihood of battery leakage. No like domestic product can feasibly provide the same level of safety as BQHB. BQHB can be recognized by its chemical composition and by the fact that it contains an extremely low incidence of non-metallic inclusions. Ultimately, BQHB is

recognized by its product description and its reliable performance. A typical description of BQHB is:

Hot-rolled carbon steel flat product of a low carbon steel, aluminum killed SAE 1006 or equivalent containing max. 0.08% carbon, max. 0.45% manganese, 0.025% phosphorous, and 0.02% sulfur. The steel should be ultra-clean and capable of passing long-term battery storage, safety, and reliability tests.

Individual particles of non-metallic inclusions shall not be greater than 1 micron and clusters or groups of non-metallic inclusions shall not exceed 5 microns in length.

Basis for Exclusion of BQHB from Remedial Trade Sanctions

Because of tightly controlled product performance specifications, BQHB is the only reliable and cost effective steel product capable of safely containing highly pressurized caustic battery substances under normal conditions. While Eveready takes no position regarding the appropriate Section 203 remedies for other hot-rolled steel products, the social and economic costs of sanctioning BQHB imports greatly outweigh the benefits, if any, that would accrue to the domestic steel industry.

The Domestic Steel Industry Has Shown No Interest in Supplying BQHB

No domestic steel producer currently has the combined capability and interest to produce BQHB. It is a unique, niche market hot-rolled product that requires extraordinary production and pre-production attention but represents a miniscule portion of the total hot-rolled market. Although Eveready conducted domestic sourcing and testing investigations in 1994, domestic steel showed significantly increased incidence of battery can failure and leakage. Eveready has also appeared before the ITC on two occasions to apprise the Commission that domestic steel producers lack interest in supplying BQHB. Eveready appeared at the public hearing for investigation numbers 701-TA-404-408 and 731-TA-898-908 on July 17, 2001 and at the relevant injury hearing

of the present 201 investigation on September 20, 2001. Still, domestic producers lack interest in BQHB, and, despite Eveready's ITC appearances and attempts to secure domestic sources, no domestic producer has approached Eveready to initiate the BQHB qualification process.

The injury found in the Section 201 investigation did not result from the import of a non-competitive product known as Battery Quality Hot-Band. The domestic steel industry's various readjustment plans show that domestic interest in producing BQHB remains negligible. By concentrating on large-scale readjustment activities such as rebuilding coke plants, refitting blast furnaces, initiating COREX units, developing alternative iron sources, and upgrading mills, the domestic industry is signaling that it will focus upon larger concerns than entering the niche BQHB market.

The domestic industry has shown a lack of interest in producing BQHB, and, consequently, no domestic steel producer is currently qualified to supply BQHB. In light of the present opportunity to restructure itself during the readjustment period, it is likely that a lack of interest will continue until a competitive position is re-established. Once the threat from global production overcapacity and inexpensive imports has been eliminated, the domestic industry may show an interest in entering the BQHB market by approaching Eveready or other domestic battery companies for BQHB qualification.

Eveready welcomes the benefits that would accompany domestic steel's entry into the BQHB market. In the meantime, as discussed above, the benefits that the domestic industry would receive from the imposition of remedial measures upon BQHB, which is not directly competitive with any domestic like products, is negligible.

***The Economic and Social Costs of Remedial Measures
Against BQHB Would be Significant and Irreparable.***

Eveready provides almost 2,500 American jobs in its domestic battery facilities.

The attached spreadsheet shows the locations of these facilities, the number of employees at each facility, the total working population in each facility's surrounding community, and a comparison of each battery facility's average hourly wage to the community wide average wage. The spreadsheet clearly shows that the battery facilities provide good paying jobs, often to a substantial portion of the local workforce. Eveready petitions for the granting of the present exclusion request in order to protect these American jobs.

As the world's largest producer of primary batteries, Eveready must have uninterrupted access to qualified and reliable sources of reasonably priced BQHB. Because no domestic source of BQHB is available, imposition of a 40% duty rate, as suggested by the domestic industry, would impermissibly raise the cost of battery production. Quotas and other remedies would disrupt the supply of BQHB. The only way that Eveready could competitively respond to the upward pricing pressure or supply disruption that will inevitably result from any trade remedy imposed on BQHB would be to cease domestic production and shift production to existing foreign sources. Closing of Eveready's plants would result in substantial unemployment increases in all battery production facility communities. The localized economic and social consequences would be devastating, lasting, and, in many ways, irreparable.

Conclusion

Eveready respectfully submits the present request that the President grant a product exclusion for BQHB. Imposition of remedies against BQHB not only fails to economically benefit the domestic steel industry but will disproportionately injure the domestic battery industry, domestic battery workers, and the communities in which battery production facilities are located.

Further, imposition of remedies against BQHB runs contrary to the President's objective of providing relief from low-priced imports and eliminating excess global steel production capacity. BQHB is a premium priced steel product, and few steel producers in the world have shown an interest in producing it.

Because the domestic social and economic costs of imposing Section 203 remedies upon BQHB far exceed the benefits, if any, to the domestic steel industry, and because imposition of remedies upon BQHB is inconsistent with the objectives of the present investigation, Eveready respectfully requests that the President grant an exclusion from remedies imposed on other hot-rolled carbon and alloy flat products for a niche market product known as Battery Quality Hot-Band, described above.

If you have any questions regarding this matter, please do not hesitate to contact the undersigned.

Respectfully Submitted,

-----/S/-----

Steven P. Sonnenberg
Sonnenberg & Anderson
333 West Wacker Drive, 20th floor
Chicago, IL 60606
312-899-1100

Attachment

BQHB Exemption Request

	<u>Asheboro I and II</u>	<u>Maryville</u>	<u>Garrettsville</u>	<u>Marietta</u>	<u>Westlake</u>	<u>Overall</u>
Town Population	21,672	10,581	2,108	15,026	31,000	
Number of Energizer Employees						
Hourly	990	582	43	35	0	
Salary	157	94	7	21	567	
Total	1147	676	50	56	567	2,496
Energizer Pay Rates						
Community-Average Hourly Pay Rate	\$12.05	\$12.69	\$12.13	\$13.56	N/A	
Energizer- Average Hourly Pay Rate	\$15.20	\$14.67	\$14.43	\$17.91	N/A	
Energizer avg. / Community avg.	126.14%	115.60%	118.96%	132.08%		
Bureau of Labor, Statistical Region	<u>Randolph County</u>	<u>Nodaway County</u>	<u>Portage County</u>	<u>Washington County</u>	N/A	
Regional total number of employed	68,266	12,481	82,926	31,514		
Bureau of Labor report date	Sept. 2001	Sept. 2001	Sept. 2001	Sept. 2001		
Eveready's percentage of regional employment	1.68%	5.42%	0.06%	0.18%		